the judgment was secured before naturalization. *Held*, that the foreign judgment is not enforceable. *Grubel* v. *Nassauer*, 210 N. Y. 149.

For a discussion of this case and the principles involved, see NOTES, p. 464.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — RIGHTS UNDER THE FOURTEENTH AMENDMENT. — The defendant was indicted under a statute which provided that whoever should agree to lease any building, knowing, or with good reason to know, that it was intended to be used as a house of ill-fame, or whoever should, knowingly, or with good reason to know, permit the building to be so used, should be guilty of a misdemeanor. A second statute provided that two convictions in the same house within six months would satisfy the requirement that the house had been so used with the permission of the owner. This was the only evidence of knowledge in the principal case. A writ of *habeas corpus* is brought to secure the relator's release. *Held*, that the relator be discharged, the second statute being unconstitutional. *People* v. *Warden of City Prison*, 143 N. Y. Supp. 912 (Sup. Ct.).

One who leases a house with knowledge that it is to be used as a disorderly house, or who permits it to be so used, is guilty of a misdemeanor at common law. *People* v. *Erwin*, 4 Den. (N. Y.) 129. *Contra*, *Reg.* v. *Stannard*, L. & C. 349. A disorderly house is a common-law nuisance. *Price* v. *State*, 96 Ala. 1, 11 So. 128. Therefore no *mens rea* need be shown. *Reg.* v. *Stephens*, L. R. 1 Q. B. 702. The element of knowledge is, however, necessary. See *State* v. *Williams*, 30 N. J. L. 102, 106. The lessor has to be connected in some way as a principal in the misdemeanor, since mere ownership of the property imposes no responsibility for the nuisance. *Schmidt* v. *Cook*, 4 Misc. (N. Y.) 85, 23 N. Y. Supp. 799. The first statute is, except for the punishment provided, declaratory of the common law. The second statute, in terms, precludes the defendant from denying his connection with the crime on the score of knowledge. Such a conclusive presumption has been held unconstitutional. *Groesbeck* v. *Seeley*, 13 Mich. 329. More probably the intent was to make knowledge unnecessary. The first statute also gave the owner a right to oust a once-convicted tenant. This puts a duty on him to enforce that right. Failing to do so before a second conviction, he has violated the statute. The maximum penalty provided is a five hundred dollars fine, or one year's imprisonment, or both. PENAL LAW, 1909, § 1937. To punish thus a morally guiltless defendant savors of a deprivation without due process of law. Yet the police power has often been extended equally far in the interest of public health and morals. *People* v. *West*, 106 N. Y. 293, 12 N. E. 610; *Ford* v. *State*, 85 Md. 465, 37 Atl. 172; *Ah Sin* v. *Wittman*, 198 U. S. 500.

CONSTITUTIONAL LAW — PERSONAL RIGHTS, CIVIL, POLITICAL, AND RELIGIOUS — OPERATION TO PREVENT PROCREATION. — THE Board of Examiners of Feeble-Minded, Epileptics, Criminals, and other Defectives, to prevent procreation, ordered the operation of salpingectomy on the plaintiff, a woman confined in a charitable institution for epileptics. A statute provided for the asexualization of feeble-minded, epileptics, rapists, certain criminals and other defectives who were confined in state reformatories, charitable, and penal institutions. *Held*, that the portion of the statute relating to epileptics is unconstitutional because, not applying equally to all epileptics within the state, it does not afford equal protection of the laws. *Smith* v. *Board of Examiners*, 88 Atl. 963 (N. J. Sup. Ct.).

Aside from this apparently impregnable position, the opinion contains a strong *dictum* on the broader ground that statutes of this nature are invalid under the "due process of law" clause as an unreasonable exercise of police power. The case is interesting to compare with *State* v. *Feilen*, 126 Pac. 75 (Wash.), discussed in 26 HARV. L. REV. 163. There the question arose under

circumstances most favorable to the right of the state — the operation being vasectomy (the surgical sterilization of a male, relatively a very simple affair), to be performed on a man convicted of a sexual crime — the only constitutional difficulty being the prohibition against "cruel and unusual punishment." Here the operation was a serious one, although the simplest method of asexualizing a woman, and the question is raised as to the suppression of the rights of the individual for the artificial enhancement of the public welfare. Since this New Jersey statute expressly provided that the fact that it is held unconstitutional in regard to a single class shall not invalidate the act as a whole, the court may yet be given an opportunity to express itself on the criminal portion of the statute. Statutes similar to that in the principal case have been enacted in Indiana, Iowa, California, Washington, Connecticut, New York, Utah and Michigan. In Vermont such a bill was vetoed. But they have not been passed upon by the courts except in these two states. For a general discussion of the whole question see 27 Medico-Legal Journal, 134, in which such statutes are advocated; and 4 Journ. Crim. Law, 326, where they are strongly disapproved. See also MOSBY, CRIME, 111.

CONSTITUTIONAL LAW — POWER OF EXECUTIVE — PRESERVATION OF NEUTRALITY BY INTERNMENT. — Mexican soldiers belonging to the Federalist forces, having been put to flight, crossed the boundary into the United States. They surrendered to the United States army, and by order of the President were disarmed and interned. They now petition for a writ of *habeas corpus*. *Held*, that the writ be denied, no provision of the Constitution of the United States having been violated. *Ex parte Toscano*, 208 Fed. 938 (Dist. Ct., S. D. Cal.).

It is clear that aliens fall under the protection of the "due process" clause. *Wong Wing* v. *United States*, 163 U. S. 228. By an express provision of the Convention of The Hague, belligerent troops which are received by a neutral power are to be interned. 36 U. S. STAT. AT LARGE, 2324. The principles governing the status of neutrality are old. See 2 WESTLAKE, INT. LAW, 169. They are as necessary a part of sovereignty as the war power, and the federal government from the first has enforced them. *The Santissima Trinidad*, 1 Brock. (U. S. Circ. Ct.) 478, 488, 496. See 1 AMER. STATE PAPERS, 69, *et seq.*; 7 MOORE, DIG. INT. LAW, 1002, *et seq.*; 8 AMER. JOURN. INT. LAW, 1. The provision of the treaty is merely declaratory. The admittance of foreign troops into the territory is a matter of grace. See *The Schooner Exchange* v. *McFadden*, 7 Cranch (U. S.) 116, 139. It is granted under the circumstances of the principal case for reasons of humanity. See HALL, INT. LAW, 625. But having permitted the entrance, the nation could not allow the belligerents to leave without a violation of neutrality. 2 HALLECK, INT. LAW, 173. This internment, as well as the decision whether there is a state of belligerency, properly falls within the executive functions without the interposition of the judiciary. If a crime were charged a judicial trial would be necessary. *Wong Wing* v. *United States*, *supra*, 236. Here, however, such is not the case. There is no violation of the neutrality laws. Thus the case differs from *Ex parte Orozco*, 201 Fed. 106. See 7 MOORE, DIG. INT. LAW, 1018, *et seq.* 1026. The jurisdiction of the executive here is based on the exigencies of government. See 27 POL. SC. QUART. 215, 238. The restraint of liberty is necessary, first, to preserve peace internally; second, to prevent the nation from being involved in a foreign war. Liberty may also be restrained by the executive officers acting alone in the analogous case of the detention and exclusion of aliens. See *Wong Wing* v. *United States*, *supra*, 231. See also 22 HARV. L. REV. 221, 360. So, too, by boards of health in passing on questions of quarantine and enforcing their decisions. *Valentine* v. *Englewood*, 76 N. J. L. 509, 71 Atl. 344. In the principal case, therefore, there seems to have been a proper exercise of the executive power in the enforcement of a declaratory treaty.